

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: Dr. T.C.NAIR, WHOLE TIME MEMBER

**IN THE MATTER OF M/s ALLWIN SECURITIES LIMITED, SUB BROKER TO JOINDRE CAPITAL SERVICES LIMITED IN THE
SCRIP OF GUJARAT FISCON LIMITED**

ORDER

(Under Regulation 13(4) of SEBI (Procedure For Holding Enquiry By Enquiry Officer and Imposing Penalty) Regulations, 2002 against M/s Allwin Securities Limited, Sub-broker to Joindre Capital Services Limited, Member, BSE.

1.0 Background

1.1 SEBI had conducted investigations into the alleged price manipulation in the scrip of Gujarat Fiscon Limited (hereinafter referred to as "GFL") for the period from July 31, 2000 to December 15, 2000 (hereinafter referred to as the "investigation period"). It was revealed from the investigations that during the investigation period, the price of GFL moved from Rs.60 to Rs.104 respectively and touched a peak of Rs.113.50 on November 27, 2000 on BSE.

1.2 Investigations revealed that a cartel of clients and brokers who were known to each other and who also had business relationship traded heavily in the scrip thereby creating artificial volumes in the scrip at BSE. It was found that the top eight members traded 82% of the traded volume. It was alleged that these members abetted their clients in creating artificial volumes.

1.3 M/s Allwin Securities Limited (hereinafter referred to as "Allwin") is a sub broker to Joindre Capital Services Ltd., Member of the Bombay Stock Exchange Ltd. (hereinafter referred to as "BSE") registered with the Securities and Exchange Board of India (hereinafter referred to as "SEBI") as a stock broker under Section 12 of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "the SEBI Act").

1.4 Investigation revealed that Allwin's trade constituted 10% of the trade volume in the scrip of GFL. Allwin bought and sold 65,200 shares and 64,800 shares of GFL respectively, all on behalf of a client, Shri Heerachand Salecha (hereinafter referred to as "Shri Salecha"). It was alleged that Shri Salecha was the master mind behind the manipulation in the scrip of GFL and also traded through a broker, M/s. Ramaben Samani Finance Limited (hereinafter referred to as "RSF") in the client name of Shri Kishore Kumar Vasa. It was also found that Shri Salecha was the single largest contributor to the volumes in GFL on account of aggregating his trades through Allwin and RSF, which worked out to 27.59% of the total traded volume. It was alleged these trades caused the price rise as indicated above. Since it was found that Shri Mahendra Prasad, brother of Shri Pawan Mallawat, Director, Allwin introduced Shri Salecha to Allwin, it was alleged that Allwin was aware of the manipulation in the scrip of GFL.

1.5 It was also alleged that the orders placed by Allwin matched with member, Bhagwandas Bhogilal & Co., trading for client, Shri Jatin R Shah and broker, M/s. Bharti Thakkar India Securities Private Limited, trading for client, Agarwal Shares & Finance Private Limited. All the transactions of Allwin in GFL were squared off, except for 400 shares.

1.6 In view of the above findings, it was alleged that Allwin did not exercise due diligence in violation of Clause A (2) of the Code of Conduct for sub brokers, as specified in Schedule II, read with Regulation 15 of the SEBI (Stock Brokers and Sub- Brokers) Regulations, 1992 (hereinafter referred to as "the Stock Brokers Regulations").

2.0 Enquiry Proceedings

- 2.1 On completion of the investigation, an Enquiry Officer was appointed, vide Order dated August 24, 2004, under Regulation 5 (1) of the SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as "the Enquiry Regulations, 2002") to enquire into the alleged violations made by the sub broker, Allwin. A show cause notice dated December 30, 2004 was issued to Allwin, under Regulation 6 (1) of the Enquiry Regulations, 2002, to show cause within 21 days of the notice as to why recommendation under the Enquiry Regulations, 2002 should not be made against it. Allwin was also advised to indicate whether it desired a personal hearing.
- 2.2 Allwin replied to the aforesaid show cause notice, vide its letter dated January 20, 2005 and made submissions. An opportunity of personal hearing was granted to Allwin on February 25, 2005, wherein Shri Pawan Mallawat, Director, Allwin reiterated the submissions made by Allwin vide the aforementioned letter dated January 20, 2005.
- 2.3 On completion of enquiry, the Enquiry Officer submitted his report dated June 28, 2005, recommending a minor penalty of censure to Allwin.

3.0 Show Cause Notice and Reply

- 3.1 On the basis of the recommendation of the Enquiry Officer, a show cause notice dated July 04, 2005 was issued to Allwin under Regulation 13 (2) of the Enquiry Regulations, asking it to show cause as to why penalty, as considered appropriate, should not be imposed upon it. A copy of the Enquiry Report was also forwarded to Allwin along with the said show cause notice.
- 3.2 Allwin replied to the aforementioned show cause notice, vide letters dated July 12, 2005 and August 9, 2005 and, inter-alia, made the following submissions :
- (i) *Shri Heerachand Salecha was registered as a client and had complied with all the formalities, including filling up of KYC form..*
 - (ii) *Shri Salecha was trading on a regular basis in various scrips.*
 - (iii) *Shri Salecha delivered shares standing in his name from his demat account and deliveries were credited to his demat account.*
 - (iv) *All payments were made to him in his name, by cheque.*
 - (v) *Shri Salecha dealt as a normal client and which did not give Allwin any indication of intention to manipulate the price in the GFL.*

4.0 Consideration of Issues

- 4.1 I have carefully considered the Enquiry Report, the show cause notice issued to Allwin and the submissions of Allwin. The issue that arises for examination is whether Allwin has exercised due skill and care in dealing in the scrip of GFL on behalf of its client, Shri Salecha during the investigation period. My findings are as under :
- (i) I have noted that Alwin's trades in the scrip of GFL, on behalf of its client, Shri Salecha, during the investigation period constituted 10% of the total traded volume on BSE.
 - (ii) I have further noted that Allwin has claimed on the basis of its Know Your Client (KYC) agreement with Shri Salecha that its client, Shri Salecha is not registered with any another broker/sub-broker. I find that the investigation, further, revealed that Shri Salecha was not registered as a client with any other broker even though he was trading in another name, i.e., as a 'benami'.
 - (iii) As regards the allegation regarding matching of trades, I am of the view that electronic exchanges function by matching of orders and therefore, to state that all trades were matched with that of its counter party is stating the obvious and cannot constitute charge of matched trades.

(iv) On the subject of the allegation that there was a nexus between the client and other brokers or sub broker and their clients who traded in the scrip of GFL, Allwin has denied that its client, Shri Salecha was introduced to it by Shri Mahendra Prasad, brother of Shri Pawan Mallawat, Director of Allwin. I find that introduction of Shri Salecha to Allwin by brother of one of the directors of Allwin is not a sufficient ground for establishing the charge against Allwin on nexus. I also find that the material available on record does not suggest that Allwin knew or was aware that Shri Salecha was trading in the scrip of GFL through other brokers (viz., M/s. Ramaben Samani Finance Limited) and that too in someone else's name.

(iv) I have noted the submission made by Allwin that trading in the shares of GFL by Shri Salecha was one among the trading done by their clients and that the average daily volume of Allwin was Rs. 1.26 crore during the investigation period, out of which trading in the scrip of GFL was very small. However, I reiterate the finding made during the investigation and pointed out in the show cause notice issued to Allwin that except for few trades, all trades executed by Shri Salecha were squared off. I agree with the Enquiry Officer that in the circumstances, Allwin should have been more cautious in his dealings with Shri Salecha. Further, even though it may have been difficult to detect the suspicious trading in the present case, looking at the size of trades executed by Allwin on behalf of Shri Salecha, as compared to the total volume of trades of Allwin, I am of the view that in the circumstances, highest standards of due diligence was warranted on the part of Allwin so as to eliminate any chance of foul play in the trading by Shri Salucha.

4.2 On careful perusal of the charges and the findings, I agree with the findings of the Enquiry Officer. Considering the circumstances of the case, imposition of penalty of censure would be adequate to meet the ends of justice.

5.0 Order

5.1 Therefore, in exercise of the powers conferred upon me by virtue of Section 19, read with Regulation 13(4) of SEBI (Procedure For Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, I hereby 'Censure' Allwin Securities Limited, sub-broker to Joindre Capital Services Limited, Member, BSE, to the effect that Allwin Securities Limited should be careful in future and exercise due care and diligence in the conduct of its affairs as a capital market intermediary. I also direct Allwin Securities Limited to note that any instances of violation or non-compliance with the SEBI Act, Rules and Regulations in future shall be dealt with stringently.

Date: 14.06.07

T. C. Nair

Place: Mumbai

Whole Time Member

Securities and Exchange Board of India